

UNITED STATES PATENT APPLICATION

of

DAVID M. AUSTIN
and
WESLEY L. AUSTIN

for

DETECTION OF OBSERVER PROGRAMS AND
COUNTERMEASURES AGAINST OBSERVER PROGRAMS

BACKGROUND

1. The Field of the Invention

This invention relates to computer software and, more particularly, to novel systems and methods for detecting the presence of a computer program for monitoring a user's computer activities and countermeasures against such a computer program.

2. The Background Art

Over the last number of years there has been an explosion with the use of computer technology. Many people now work with computers on a day to day basis, whether at work, at school or at home. Not only are computers used by people on a day to day basis, but also many people heavily rely on computers, computer software and computer technology to accomplish many tasks. With this heavy reliance and use of computers, it is not a surprise that a number of people spend many hours every day on a computer.

While on a computer, users can accomplish many tasks and can engage in a number of different activities. Some of these activities may be directly related to work-like tasks and activities relating to a person's job, activities, finances, business, etc. However, a number of activities that are accomplished on or with a computer are not related to work. There are a number of computer programs that do not relate to a person's job and are primarily for entertainment. For example, computer games can be used for relaxation and enjoyment, but they do not generally enhance a person's job performance.

With the explosion of computer technology has also come the information age and the Internet. The Internet allows a vast amount of information to be accessed

316895.1

1 and transferred; it allows many forms of communication and many services and
2 activities are provided on the Internet. The World Wide Web portion of the Internet is
3 particularly popular for browsing web sites containing information and services and
4 activities.

5 With the growth of the information age, many computers, whether being used
6 at a place of business or at home, now are capable of connecting to the Internet.
7 With the ability to access the Internet, a computer user can do many things including
8 the following: accessing all sorts of information, exchanging communications with
9 other users, offering services and activities over the Internet, engaging in services
10 and activities over the Internet, shopping using the Internet, etc. The various forms
11 of activities that can take place over the Internet is increasing at a tremendous rate.

12 With the Internet and the many different kinds of computer software and
13 services available, it is difficult to know what a computer user may be doing while on
14 a computer. Some people may be concerned as to what kinds of activities are taking
15 place on a computer or computers. For example, a manager of a business may want
16 to know what his or her employees are doing on their computers, whether they are
17 mainly working or whether they are playing games, surfing the Web, etc. Some
18 parents may wish to know what their children are using their computers for. Various
19 spouses may want to know what their spouse is doing on their computer. There are
20 many contexts where a person, persons or entities may wish to observe or monitor
21 activities taking place on a computer, with computer software, over the computer
22 network, over the Internet, etc.

1 Software has been developed to meet the demands and needs of these
2 persons and/or entities that wish to observe or monitor computer users in their
3 activities. These software programs provide a wide variety of monitoring features.
4 For example, some of these programs are able to log keystrokes of a user, log menu
5 commands, take screen shots of a user's computer screen at various times, track
6 use of various programs, track what web sites have been visited, monitor e-mail
7 communications, etc. With the technology available today, most, if not all, of a
8 computer user's activities on a computer can be observed and recorded.

9 Although these observer programs provide benefits to some, much of the time
10 they are in use the computer user does not know and has no idea that much of what
11 he or she does on the computer is being observed. For example, a user may be
12 sending very personal and confidential e-mails to a family member, friend or
13 companion. This unsuspecting user may have no idea that all of these personal
14 communications are being logged and possibly read by others in his or her
15 organization. A business consultant may be relaying confidential information about a
16 company to its executives without knowing that the system administrator may be
17 observing these communications. While on a lunch break or after hours a computer
18 user may choose to visit certain web sites containing information of a confidential,
19 personal and/or private nature. Using the observing programs now available,
20 persons may be able to track what web sites are visited and even view screen shots
21 of what was being viewed. Such abilities may be highly embarrassing to the
22 unsuspecting computer user.

1 Unauthorized persons may use observing programs in an unlawful way or
2 unauthorized way. For example, a coworker may simply wish to snoop on other
3 people at work. Although not authorized by the company, this coworker may obtain
4 an observing program and secretly install it on another's computer and configure it to
5 monitor this computer's user and store the data in a way that this snooping coworker
6 may have access to it. A corporation may be spied on by competitors using these
7 observing programs. The potential damage to a corporation is great, depending on
8 which computer user was targeted with the observing program. For example, if the
9 observing program were installed on the right person's computer, valuable trade
10 secrets, confidential information, marketing and business plans, etc. may be
11 discovered and acquired by a snooping competitor.

12 With the computer technology of today and with the observing programs now
13 available and for those programs that will surely be developed and used in the future,
14 computer users may be watched by third parties more often than many think. It
15 would be highly beneficial to computer users if they could find out whether they are
16 being observed by computer software and technology and to know information about
17 the observing activity and/or program. In addition, it would be beneficial to such
18 users if they could counteract or combat the observing program.

19 BRIEF SUMMARY AND OBJECTS OF THE INVENTION

20 In view of the foregoing, it is an object of the present invention to provide
21 systems and methods for detecting the presence of an observing or monitoring
22 program.

1 It is also an object to provide countermeasures against observing or monitoring
2 programs.

3 Consistent with the foregoing objects, and in accordance with the embodiments
4 as embodied and broadly described herein, a system for detecting an observing
5 program on a computer system is disclosed as including accessing instructions that
6 access observer data. The observer data includes data descriptive of the observer
7 program. The observer program is programmed to observe a user's activities on the
8 computer system and also operates to create data from its observations. The
9 system also includes reading instructions that read memory of the computer system
10 to obtain memory data. Further, the system includes comparing instructions that
11 compare the observer data with memory data read in from memory to determine
12 whether the observer program is present on the computer system. The system also
13 includes generating instructions that generate results from the reading and
14 comparing. The results generated indicate whether the observer program is present
15 on the computer system. In addition, the system includes outputting instructions that
16 obtain the results and provide the results for a user. The outputting instructions may
17 provide the results to a user through a graphical user interface.

18 The system may read the memory of the computer system by querying the
19 operating system of the computer system for the tasks running and by examining
20 task information provided by the operating system. In addition, the system may read
21 the memory of the computer system by querying the file system of the computer
22 system for the files located on storage media and by examining file information

1 provided by the file system. In reading the memory, the system may also open a file
2 located on storage media and examine the contents of the file.

3 The observer data may include data descriptive of a plurality of observer
4 programs. When this is the case, the system compares the observer data with the
5 memory data to determine whether any known observer program is present.

6 A method is disclosed for detecting an observing program on a computer
7 system including the steps of accessing observer data, reading memory of the
8 computer system to obtain memory data, comparing the observer data with memory
9 data read in from memory to determine whether the observer program is present on
10 the computer system, generating results from the reading and comparing, and
11 outputting the results for a user.

12 Also disclosed herein is a system for altering the operation of an observer
13 program on a computer system, wherein the system includes accessing instructions
14 that access observer information that is descriptive of the observer program, reading
15 instructions that read memory of the computer system to obtain files relating to the
16 observer program, and altering instructions that alter a file relating to the observer
17 program such that the operation of the observer program is changed. The system
18 may also include inputting instructions that display to a user options regarding the
19 altering and that take input from the user relating to the options.

20 The altering instructions may alter the operation of the observer program by
21 altering observer program configuration data. In addition, they may alter the
22 operation of the observer program by altering a file on the computer system. The
23 altering instructions may also alter the operation of the observer program by altering

316895.1

1 reporting data generated by the observer program. Moreover, the altering
2 instructions may alter the operation of the observer program by replacing reporting
3 data generated by the observer program. A file of the observer program may also be
4 replaced or changed to alter the operation of the observer program.

5 The systems disclosed may be made available over a computer network. For
6 example, the Internet or the World Wide Web may be used in making the systems
7 available to users. A web site may be used in providing the systems to users.

8 Instructions for detecting an observing program on a computer system and/or
9 for altering the operation of an observer program may be contained on a computer-
10 readable medium. The computer-readable medium may also be a data transmission
11 medium.

12 BRIEF DESCRIPTION OF THE DRAWINGS

13 The foregoing and other objects and features of the embodiments will become
14 more fully apparent from the following description and appended claims, taken in
15 conjunction with the accompanying drawings. Understanding that these drawings
16 depict only typical embodiments and are, therefore, not to be considered limiting of the
17 invention's scope, the embodiments will be described with additional specificity and
18 detail through use of the accompanying drawings in which:

19 Figure 1 is block diagram of the major hardware components of a computer
20 used with the embodiments;

21 Figure 2 is a data and software block diagram that illustrates the typical
22 interactions and interfaces an observing or monitoring computer program has;

Figure 3 is a software and data block diagram illustrating an embodiment of an observer detector and the software and/or data it may access;

Figure 4 illustrates a general flow diagram that includes steps that may be followed when using an embodiment;

Figure 5 illustrates a general flow diagram of steps that may be followed in implementing an embodiment of an observer detection computer program;

Figure 6 illustrates a general flow diagram of steps that may be followed in implementing an embodiment of an observer detection computer program;

Figure 7 illustrates a general flow diagram of steps that may be followed in implementing an embodiment executing countermeasures against observer computer programs;

Figure 8 illustrates a general block diagram of a computer network being used to distribute and use embodiments as disclosed herein; and

Figure 9 is a general flow diagram illustrating the steps that may be followed with an embodiment distributed and used via the World Wide Web.

DETAILED DESCRIPTION

It will be readily understood that the components of the embodiments, as generally described and illustrated in the Figures herein, could be arranged and designed in a wide variety of different configurations. Thus, the following more detailed description of the embodiments of the systems and methods disclosed, as represented in Figures 1 through 9, is not intended to limit the scope of the invention, as claimed, but is merely representative of the presently preferred embodiments.

1 The presently preferred embodiments will be best understood by reference to
2 the drawings, wherein like parts are designated by like numerals throughout.

3 Consistent with the foregoing objects, and in accordance with the embodiments
4 as embodied and broadly described herein, a system for detecting an observing
5 program on a computer system is disclosed as including accessing instructions that
6 access observer data. The observer data includes data descriptive of the observer
7 program. The observer program is programmed to observe a user's activities on the
8 computer system and also operates to create data from its observations. The
9 system also includes reading instructions that read memory of the computer system
10 to obtain memory data. Further, the system includes comparing instructions that
11 compare the observer data with memory data read in from memory to determine
12 whether the observer program is present on the computer system. The system may
13 also include generating instructions that generate results from the reading and
14 comparing. The results generated indicate whether the observer program is present
15 on the computer system. An observer program being present may mean any of the
16 following: that it is installed, or that it has some portions of code running, or that it
17 has some portions loaded into memory, or that it has a communications pathway
18 open such that it has a virtual presence and can somehow monitor the computer,
19 etc. As described, the term "present" is a broad term meaning any presence of or
20 any connection to any portion of an observer program. This term shall not be
21 narrowly construed as meaning only a certain type of installation or only a certain
22 type of presence (e.g., only currently running as a task on the task list, or only
23 current installed on the local hard drive, etc.).

316895.1

1 In addition, the system includes outputting instructions that obtain the results
2 and provide the results for a user. The outputting instructions may provide the
3 results to a user through a graphical user interface.

4 The observer data that includes data descriptive of the observer program is a
5 broadly defined term as any data that somehow describes one or more observer
6 programs. As will be discussed hereinafter, this data may include a list of files,
7 libraries, modules, tasks, etc. of one or more observer programs. In addition, this
8 data may also include data that generally describes one or more observer programs
9 without having any specific file, module, task, library, or the like information. For
10 example, the data may include an indication of keystroke logging, or of menu
11 command logging, or of periodic screen capture and the storing of the screen
12 capture, etc. Thus, as illustrated, the observer data need not have information
13 specifically tied into one or more observer programs, but may generally describe the
14 characteristics of observer programs. In this way, embodiments herein may be
15 implemented and used to detect observing programs whether known or unknown.

16 An instruction herein includes any and all types of instructions, but mainly
17 refers to the machine language instructions to be executed by a processor. Machine
18 language is the native language of the computer. As will be appreciated by those
19 skilled in the art, machine language instructions are created by programs called
20 assemblers, compilers and interpreters, which convert the computer programming
21 source code, typically written by a computer programmer or engineer, into the
22 machine language that the computer understands. Thus, any reference to multiple
23 instructions is not meant to limit the scope of the claims to many instructions written

316895.1

1 by a programmer, but only relates to the machine language instructions and
2 recognizes that multiple machine language instructions will no doubt be needed to
3 accomplish the more general function being referred to. Even a simple task such as
4 moving data from memory to a register requires multiple instructions, such as moving
5 the correct address into an address register and then moving the contents of that
6 address into a certain data register. These low-level details are not necessary for
7 those skilled in the art to implement the embodiments herein, but are only meant to
8 explain the term instructions.

9 The system may read the memory of the computer system by querying the
10 operating system of the computer system for the tasks running and by examining
11 task information provided by the operating system. In addition, the system may read
12 the memory of the computer system by querying the file system of the computer
13 system for the files located on storage media and by examining file information
14 provided by the file system. In reading the memory, the system may also open a file
15 located on storage media and examine the contents of the file.

16 The observer data may include data descriptive of a plurality of observer
17 programs. When this is the case, the system may compare the observer data with
18 the memory data to determine whether any known observer program is present.

19 A method is disclosed for detecting an observing program on a computer
20 system including the steps of accessing observer data, reading memory of the
21 computer system to obtain memory data, comparing the observer data with memory
22 data read in from memory to determine whether the observer program is present on

1 the computer system, generating results from the reading and comparing, and
2 outputting the results for a user.

3 Also disclosed herein is a system for altering the operation of an observer
4 program on a computer system, wherein the system includes accessing instructions
5 that access observer information that is descriptive of the observer program, reading
6 instructions that read memory of the computer system to obtain files relating to the
7 observer program, and altering instructions that alter a file relating to the observer
8 program such that the operation of the observer program is changed. The system
9 may also include inputting instructions that display to a user options regarding the
10 altering and that take input from the user relating to the options.

11 The altering instructions may alter the operation of the observer program by
12 altering observer program configuration data. In addition, they may alter the
13 operation of the observer program by altering a file on the computer system. The
14 altering instructions may also alter the operation of the observer program by altering
15 reporting data generated by the observer program. Moreover, the altering
16 instructions may alter the operation of the observer program by replacing reporting
17 data generated by the observer program. A file of the observer program may also be
18 replaced or changed to alter the operation of the observer program.

19 The systems disclosed may be made available over a computer network. For
20 example, the Internet or the World Wide Web may be used in making the systems
21 available to users. A web site may be used in providing the systems to users.

22 Instructions for detecting an observing program on a computer system and/or
23 for altering the operation of an observer program may be contained on a computer-

316895.1

1 readable medium. The computer-readable medium may also be a data transmission
2 medium.

3 Now referring to Figure 1, Figure 1 illustrates an embodiment of the major
4 components of a computer 20 that may be used with the embodiments disclosed
5 herein. Computers are well known in the art and are readily available for purchase.
6 Many different kinds of computers can be used with the embodiments disclosed
7 herein.

8 The computer 20 typically includes a processor 22 and memory 24 that
9 includes non-volatile and volatile types of memory (e.g., RAM 26 and a hard drive
10 28). It will be appreciated by those skilled in the art that various devices and/or
11 components may be used for memory, including RAM, ROM, a hard drive, floppy
12 drives, optical drives, etc. A computer 20 also typically includes input devices 30
13 (e.g., keyboard, mouse, keypad, switches, touch screens, etc.) and output devices
14 32 (e.g., monitors, printers, speakers, LCDs, etc.).

15 As discussed, many different kinds of computers can be used with the present
16 invention, including personal computers, workstations, personal digital assistants,
17 cellular phones, web TVs, etc. The computers 20 herein are broadly defined digital
18 computers. A computer, as used herein, is any device that includes a digital
19 processor capable of receiving and processing data. A computer includes the broad
20 range of digital computers including microcontrollers, hand-held computers, personal
21 computers, servers, mainframes, supercomputers, and any variation, combination or
22 related device thereof. The input and output devices 30, 32 include any component,

1 element, mechanism, appliance, or the like capable of receiving and/or generating an
2 electronic signal.

3 In current design, the embodiments herein are used with personal computers
4 and workstations: the types of computers typically used by persons at work and at
5 home on a daily and regular basis. It will be appreciated by those skilled in the art
6 that the embodiments herein could be applied to many different kinds of computers
7 as the needs arise for use of the embodiments with various and diverse computer
8 systems.

9 Referring now to Figure 2, Figure 2 is a data and software block diagram that
10 illustrates the typical interactions and interfaces an observing or monitoring computer
11 program 34 has. Observer programs, modules and functionality 34 are commercially
12 available and/or can be created and employed by those skilled in the art. For
13 example, one observer program now commercially available is the Investigator
14 product offered by WinWhatWhere. Others include Omniquad Desktop Surveillance,
15 WinGuardian, and Stealth Keyboard Interceptor.

16 An observer 34 is broadly defined herein as any tool, utility, computer
17 software or computer technology used to observe, eavesdrop on, watch and/or
18 otherwise monitor a computer user in his or her activities on a computer 20.

19 Typically observer programs 34 may receive or gather various input data and
20 may create output data. As shown in Figure 2, an observer may monitor and/or
21 receive various actions 36 taking place on a computer 20. For example, actions 36
22 may include data transferal. Data transferal may be from input devices 30 such as a
23 keyboard, a mouse or a microphone, or it may be from memory 24 devices such as

316895.1

1 RAM, internal storage (e.g., a hard drive), removable storage (e.g., CDs, floppies,
2 removable hard drives), or from another external source, such as a network
3 connection. Actions 36 may also include menu commands, process changes, file
4 system changes, window creation and deletion, active window changes, an
5 operation, a command, certain data or messages being received, etc.

6 Referring again to Figure 2, an observer 34 may monitor and/or copy various
7 pieces of data 38 available to a computer 20. For example, data 38 may include
8 data stored on any type of memory (storage) device available to the computer 20,
9 including but not limited to permanent storage (hard drive), removable storage (CDs,
10 floppies, DVDs, removable hard drives), computer memory, data stored on a storage
11 device made available via a network, etc.

12 Thus, observers 34 can be programmed and structured to observe or monitor
13 virtually any detectable event or piece of data on the computer 20 or detectable by
14 the computer 20.

15 An observer 34 can take user input or read in configuration data to configure
16 itself. The configuration data 40 may configure the observer 34 to operate in a
17 specific mode or modes. For example, if an observer 34 were to simply log
18 keystrokes of a user and perform no more monitoring than that, observer
19 configuration data 40 may be read in by the observer 34 that directs it to only log
20 keystrokes. Configuration files and configuration data 40 are well known in the art.

21 Configuration data 40 may be stored in a variety of ways, depending upon the
22 programmers, upon the computer, upon the operating system, etc. For example, if
23 the observer 34 were installed to run on a typical personal computer running

316895.1

1 Windows 95/98/2000, the initialization or configuration data 40 may be stored as
2 configuration files on the hard drive. Some initialization data may also be stored in
3 certain ".ini" files, or in the registry. Those skilled in the art will appreciate the many
4 ways that configuration data 40 can be stored for the various operating systems and
5 computers that may be used.

6 Of course, other information and/or data 42 may be gathered by the observer
7 34. For example, file system changes (deletion, modification, creation), process
8 changes (which process is the active process and for what period of time), data
9 packets received over a network or communications port, data received from
10 specialized input devices, etc.

11 Observers 34 may be programmed and/or configured to create and/or
12 generate various sorts of data. For example, and as illustrated in Figure 2, an
13 observer 34 may create a log that logs all observed items. Some observers 34 may
14 simply create a log file 44 and write data to the log file 44 to log every observed
15 event, piece of data, etc. An observer 34 may write to a log file 44 every time new
16 data is acquired and/or observed, or it may only periodically write to the log file 44
17 such newly acquired and/or observed data.

18 Observers 34 may be also programmed and/or configured to create and/or
19 generate various sorts of reports. For example, and as illustrated in Figure 2, an
20 observer may create a report 46 for reporting the data that has been acquired and/or
21 observed. Reports 46 may be stored locally on the computer 20, they 46 may be
22 stored on or via a network connected to the computer 20, they 46 may be e-mailed to
23 a certain e-mail address, etc.

316895.1

1 Of course, other information and/or data 48 may be created by the observer
2 34, for example, an observer 34 may take screen shots of the computer's screen and
3 e-mail them to a specified e-mail address. In addition, certain specified events may
4 occur and cause the observer 34 to send a special message or data packet to a
5 certain entity. For example, if an observer 34 monitors confidential documents being
6 accessed or copied, an observer 34 may be programmed to immediately send an
7 alert to a specified entity.

8 Figure 3 is a software and data block diagram illustrating an embodiment of
9 an observer detector 50 and the software and/or data it may access. An
10 embodiment 50 as illustrated in Figure 3 may use the data used by an observer 34
11 and may use the data generated by an observer 34 to detect the presence of an
12 observer 34. Embodiments herein may use many different methods to detect the
13 presence of an observer 34.

14 When observer computer programs 34 are installed onto a computer 20, a
15 number of files are copied to a storage device. Typically also one or more directories
16 are created. The embodiment as shown in Figure 3 may scan for this installation
17 data 52 to see whether an observer 34 has been installed. For example, with an
18 embodiment used with the Microsoft Windows 95/98/2000 operating system, when
19 installing an observer computer program 34, it may be that certain dynamically linked
20 libraries ("DLL's") are installed to the Windows/System directory. In addition,
21 typically a new directory is created for the observer 34 and a number of files and/or
22 subdirectories are also created.

1 The embodiments herein may scan memory 24, typically non-volatile memory
2 for particular files 52, directories 52 and other items 52 created at installation of any
3 observers 34 for the presence of one or more observers 34. Those skilled in the art
4 will appreciate that these signs of installation can easily be obtained initially by
5 simply buying an observer program 34 and installing it on a system 20. One skilled
6 in the art may then compare the system 20 before the observer 34 installation with
7 the system 20 after the observer 34 installation to see what new directories have
8 been created, what new files are present, what files have been modified, etc. The
9 comparison may be done quite simply, even a manual comparison would usually
10 reveal many installation details. More rigorous comparisons may be made by using
11 commercially available software to compare systems. For example, in a DOS shell
12 one may use a DOS command, 'dir c: /s > dir.txt', to take a snapshot of the C drive
13 and save the information in the file 'dir.txt'. After the installation of the observer 34
14 one may use the same command and save the snapshot in a different file. One may
15 then simply compare the two files to see what changes have taken place during the
16 installation of the observer 34.

17 One may also take snapshots of the registry to determine what changes have
18 taken place during installation of an observer program 34. Those skilled in the art
19 will appreciate that the program 'regedit' may be used to export the entire registry to
20 a text file. The registry could be exported before and after observer 34 installation to
21 determine what changes had taken place in the registry during observer 34
22 installation. One may then use one of the many programs that show the differences
23 between files to see what changes have taken place. Microsoft's 'windiff' may be

316895.1

1 used to accomplish this. Many programmer editors will also accomplish this, such
2 as, for example, the CodeWright editor. Thus, installation data 52 may be used to
3 detect the presence of an observer 34.

4 Configuration data 54 used by an observer 34 may be used to detect the
5 observer 34. The embodiments herein may scan memory 24, typically non-volatile
6 memory for configuration data 54, which may be stored in particular files, directories,
7 data structures, etc. Those skilled in the art will appreciate that configuration data 54
8 can easily be obtained initially by simply buying an observer program 34 and
9 installing and configuring it on a system 20. One skilled in the art may then compare
10 the system 20 before the observer 34 installation and configuration with the system
11 20 after the observer 34 installation and configuration to see what changes have
12 taken place. The comparison may be accomplished as previously described.
13 Examples of typical configuration data 54 locations when embodiments herein are
14 implemented on a Windows 95/98/2000 operating system include files on any long-
15 term storage devices, INI files, the windows registry, etc. Thus, configuration data 54
16 may be used to detect the presence of an observer 34.

17 As illustrated and described herein, those skilled in the art will appreciate that
18 modifications 56 to other data may have been made by any observers 34 or in
19 connection with the operation, installation, modification, deletion, etc., of any
20 observers 34. Accordingly, any other modifications 56 to the computer or
21 modifications 56 detectable by the computer may be used to determine whether an
22 observer 34 is present.

1 As described in relation to Figure 2, observers 34 may generate data 58. For
2 example, observers 34 may generate and/or modify log files 44, data reports 46,
3 events, communications, etc. Embodiments herein may determine whether any
4 observer generated data 58 is present or whether any observer generated data 58
5 has been created. Thus, observer generated data 58 may be used to detect whether
6 an observer 34 is present.

7 When an observer computer program 34 is running, observer computer
8 program instructions are typically loaded into memory 24 (typically RAM 26) and are
9 being executed by the processor 22. Embodiments herein may query the operating
10 system for any and/or all tasks 60 and/or processes 60 that are running.
11 Embodiments may then determine whether the processes 60 and/or tasks 60
12 running are from an observer 34. Depending upon which operating system
13 embodiments herein are implemented on, processes 60, tasks 60 and/or their
14 equivalents may be detected in different ways. For example, in Windows NT, one
15 may query the operating system for the processes 60 running through the
16 'EnumProcess()' function call which currently resides in the file PSAPI.DLL. The
17 operating system returns a list of the running processes 60. From this list one may
18 query the OS about each process 60, such as asking what the module name is, or
19 what files have been loaded by this process 60, etc. From this point, it is
20 straightforward to compare the running processes 60 with the process characteristics
21 of any observer programs 34. Of course, as disclosed above, one may install an
22 observer 34 and run it to discover what processes 60 are running and their
23 characteristics when the observer 34 is installed to observe. In addition, information

316895.1

1 may be published which indicates what processes 60 are running with each observer
2 program 34. Other operating systems provide equivalent functionality to detect
3 which processes 60, tasks 60 or equivalents are running. Thus, observer computer
4 program tasks 60, processes 60 or equivalents may be used to detect whether an
5 observer 34 is present.

6 To detect the presence of observers 34 that have not yet been characterized
7 by one implementing embodiments herein, one skilled in the art may program an
8 embodiment to examine any and all data on a computer system and then to catalog
9 and/or identify it as belonging to known computer programs or to unknown computer
10 programs. An embodiment may then report to the user any unknown software, data
11 or configurations on or detectable by the system. To accomplish this, known
12 computer programs would need to be characterized and cataloged. The
13 characterizations of data would then be accessed by an embodiment to identify
14 these known programs.

15 In addition, to detect the presence of observers 34 that have not yet been
16 characterized by one implementing embodiments herein, one skilled in the art may
17 program an embodiment to interrogate the operating system to determine what
18 processes (or tasks) are doing things that an observer would typically do, such as
19 logging keystrokes, monitoring internet activity, taking screen shots, etc. When this
20 method is used, the observer data may include characteristics about one or more
21 observer programs without knowing the specific files, modules, libraries, etc. of these
22 one or more observer programs. For example, if this method were used, the
23 observer data may include descriptions relating to any code that logs keystrokes, any

316895.1

code that logs menu commands, any code that periodically takes screens shots and stores or communicates them, etc. Using this observer data, an embodiment may then report to the user any processes or tasks that have been found to be doing the types of things that an observer would typically do.

Figure 4 illustrates a general flow diagram that includes steps that may be followed when using embodiments as disclosed herein. A user may run an observer detection program or observer detection code/instructions to detect whether an observer 34 is present. If an observer is present, embodiments herein may then generate 64 a report to the user reporting on the observer(s) detected. If no observer is present, embodiments report 66 to the user that no observers were present.

After observer detection means has run, a user may then be given a choice 68 as to whether he, she or it would like to run 70 any countermeasures. If the user does not wish to run 70 any countermeasures, the user may exit 72 the embodiments implemented. If the user wishes to run 70 countermeasures, embodiments herein may then execute 70 certain countermeasures. Embodiments of countermeasures will be illustrated below and discussed below.

After any countermeasures have been run 70, embodiments herein may then report 74 on the countermeasures, their operation, their success, etc. After reporting 74 on the countermeasures, a user may exit the embodiment. Of course, those skilled in the art will appreciate that changes could easily be made to the embodiments herein and still be within the scope of the teachings and claims of this patent. For example, embodiments herein may be implemented as a much larger

1 computer program. As part of a much larger program, many different choices may
2 be given to a user at different points as to what he, she or it would like to do. Thus,
3 the embodiments herein may easily be modified to meet the needs of those skilled in
4 the art implementing the claimed invention below.

5 Figure 5 illustrates steps that may be followed in implementing an
6 embodiment of an observer detection computer program. Particular or specific items
7 may be identified 76 to be interrogated in search for any observers 34 or signs of
8 observers. In an embodiment a list of items may be created that identifies the items
9 to interrogate. Most likely the list of items to be interrogated will depend upon the
10 computer hardware and its operating system. Of course, the list of items to be
11 interrogated may also depend on a number of factors. For example, the computer
12 configuration may be a factor. If a particular computer 20 had several local hard
13 drives, a number of network drives, a CD-ROM drive and memory, an observer
14 detection embodiment may identify which of these memories it would interrogate
15 first. In current design, the local hard drives are examined first, and then other
16 memories are examined.

17 After items have been identified 76 for interrogation by embodiments herein,
18 the embodiment of Figure 5 starts 78 with the first item and begins interrogation.

19 Once the list of items to interrogate has been identified 76, the embodiment
20 shown in Figure 5 may access 80 data containing characteristics of observer
21 computer programs 34. This observer programs characteristics data may be stored
22 in a separate file that can be accessed by the embodiment. In addition, the observer
23 programs characteristics data may be stored on a computer network, whether a LAN,

316895.1

1 WAN, the Internet, etc., and may be accessible by the embodiment. The observer
2 programs characteristics data may also be hardcoded into the code of the
3 embodiment such that the embodiment simply need access one or more data
4 structures to access the data. A combination of these methods may also be used to
5 access the observer programs characteristics data. Those skilled in the art will
6 appreciate the many ways that the observer programs characteristics data can be
7 stored and accessed.

8 The embodiments use the characteristics data to identify what characteristics,
9 items, modifications or things to look for to detect whether observer computer
10 programs 34 are present. Once the characteristic data is available and can be
11 accessed, the embodiment interrogates 82 the item for any of these characteristics.
12 For example, if during installation of an observer computer program 34 a particular
13 directory is created and particular files are copied to directories, the embodiment of
14 Figure 5 may interrogate the memory 24 for this particular directory and/or these
15 particular files. As discussed herein, in scanning items, many different pieces of data
16 and/or information can be accessed and examined in searching for any observer
17 computer programs 34.

18 The embodiment of Figure 5 may determine 84 whether any observer
19 computer programs 34 are present. If one or more observer computer programs 34
20 are detected, the embodiment in Figure 5 may report 86 such a finding. In addition,
21 other data may also be generated and presented as part of the observer report.
22 Those skilled in the art will appreciate that many different kinds of data may be
23 displayed and reported to a user once one or more observers 34 have been found.

316895.1

1 For example, the type(s) of monitoring taking place (e.g., keystroke logging, menu
2 commands, screen shots, etc.), how long the observer has been installed, where or
3 to what are any reports being sent, etc., may be reported to the user.

4 If no observers are found, the embodiment of Figure 5 may determine 88
5 whether more processing needs to be done. If more processing needs to be done,
6 the embodiment may get 90 the next item in the list, or it may transfer control to other
7 code to accomplish any other desired tasks. For example, if only one item has been
8 interrogated, the embodiment of Figure 5 may then cycle back to interrogate 82 the
9 next item. If the list of items to be interrogated becomes exhausted before an
10 observer is found, the embodiment may then perform other processing 89 to
11 determine if an observer is present. For example, with some operating systems it
12 may be possible to determine what processes (or tasks) are doing things that an
13 observer would typically do, such as logging keystrokes, monitoring internet activity,
14 taking screen shots, etc. When all processing is complete, then the embodiment in
15 Figure 5 may exit 92 from the steps shown.

16 Figure 6 illustrates steps that may be followed in implementing an
17 embodiment of an observer detection computer program. The embodiment shown in
18 Figure 6 may access 94 data containing characteristics of observer computer
19 programs 34. In using this data, as described herein, the embodiment can identify
20 what items to look for in order to detect whether observer computer programs 34 are
21 present. Once the characteristic data is available and can be accessed, the
22 embodiment may begin to scan or examine the computer 20 for any of the
23 characteristics. An observer program would be considered to be present if it was

316895.1

1 installed, or if it was up and running, or if any parts of the observer were installed, or
2 if any parts of the observer were up and running, or if any part of an observer was in
3 electronic communication with the computer such that any monitoring could take
4 place.

5 The embodiment of Figure 6 may query 96 the operating system for the tasks
6 and/or processes running. Those skilled in the art will appreciate how this may be
7 done. For example, with the Window NT operating system, the 'EnumProcess()'
8 function may be used to query 96 the operating system for running processes. Other
9 equivalent function calls exist with other operating systems to query the operating
10 system for running processes. Those skilled in the art with Linux, UNIX, the
11 MacIntosh operating system, JAVA, etc., will appreciate the function calls that may
12 be used to accomplish this query.

13 Once the tasks have been identified that are running, the embodiment of
14 Figure 6 compares 98 these running tasks with the characteristics data to determine
15 whether any of the running tasks belongs to an observer computer program 34.

16 The embodiment of Figure 6 may query 100 the file system for directories and
17 files accessible. Those skilled in the art will appreciate how this may be done. For
18 example, with the Windows NT operating system, the 'FindFirstFileEx()' function
19 used in conjunction with the 'FindNextFile()' function may be used to query 100 the
20 file system for directories and/or files. As mentioned above, other operating systems
21 and programs provide functionality sufficient to accomplish this query 100, and those
22 skilled in the art will appreciate how this query 100 may be accomplished on the
23 various operating systems.

316895.1

1 Once the directories, files and any other file system data has been queried
2 100 and/or obtained, the embodiment of Figure 6 compares 102 this data with the
3 characteristics data to determine whether any of the directories, files, or other file
4 system information belongs to an observer computer program 34.

5 The embodiment of Figure 6 may also examine 104 any other data structures
6 or information accessible and then compare this information with the observers
7 characteristics. For example, if the observer computer program 34 has added its
8 own hooks into the operating system, the embodiment of Figure 6 may examine the
9 operating system structure and files to determine if these hooks are present.

10 Depending upon the computer configuration, the embodiment of Figure 6 may
11 also perform 106 other scanning for any observer programs 34 or signs thereof.
12 Those skilled in the art will appreciate how to access additional information or data
13 when additional components, software or hardware, are added to a typical computer
14 configuration.

15 If observer computer program characteristics are found, the embodiment of
16 Figure 6 may report 108 its finding to the user. Once any data has been reported,
17 the embodiment of Figure 6 may continue on, or it may exit. For example, the
18 embodiment of Figure 6 may be programmed to only read in one set of characteristic
19 data at a time. That is, it may only read in the characteristics of one particular
20 observer computer program 34 at a time. If this mode of operation is followed, once
21 it has reported any findings of that observer computer program 34, the embodiment
22 of Figure 6 may cycle back up to read in the next set of characteristic data to check
23 for the presence or signs of the next observer computer program 34. Of course, it

316895.1

1 will be appreciated by those skilled in the art that the embodiment of Figure 6 may be
2 programmed to read in and/or compare any acquired data with all the characteristic
3 data sets at a time, rather than simply comparing with only one set of characteristic
4 data.

5 When all observer characteristic data has been accessed, other processing
6 may still be accomplished. For example, if no known observers were found then
7 methods may be used to determine if an unknown observer may be present, such as
8 interrogating the operating system to determine what processes (or tasks) are doing
9 things that an observer would typically do, such as logging keystrokes, monitoring
10 internet activity, taking screen shots, etc.

11 As discussed previously, countermeasures may be executed once any
12 observers have been detected. An embodiment shown in Figure 7 illustrates the
13 steps that may be followed in executing countermeasures. A user may be prompted
14 110 as to whether countermeasures should be executed. If the user wishes to
15 execute countermeasures against the observer program 34, the embodiment may
16 continue and ask the user for further inputs. If the user does not wish to execute
17 countermeasures, the embodiment may simply exit 112, or perform other processing,
18 depending on the particular implementation of the embodiment.

19 A user may be prompted and asked 114 whether he, she or it would like to
20 simply temporarily disable the observer. If the user responds that he, she or it would
21 like to temporarily disable the observer, the embodiment may temporarily disable 116
22 the observer program 34. Various means may be employed by the embodiment to
23 accomplish the request. For example, the embodiment may simply kill or terminate

316895.1

1 any observer running tasks or processes. In addition, to temporarily disable 116 the
2 observer 34, the embodiment may modify the observer's configuration data. In
3 addition, to temporarily disable 116 the observer, the embodiment may detect the
4 method that the observer 34 is using to automatically start and make modifications
5 so the observer 34 will no longer automatically start. A number of other means may
6 be used to temporarily disable 116 the observer, as will be appreciated by those
7 skilled in the art.

8 If the user does not wish to temporarily disable the observer, the user may be
9 given 118 the option to permanently disable 120 the observer. To permanently
10 disable 120 the observer, the embodiment of Figure 7 may uninstall the observer 34.
11 In addition, the embodiment may delete essential files or executables so that the
12 observer 34 cannot run. In addition, to permanently disable 120 the observer, the
13 embodiment may remove configuration data essential for the observer 34 to run. A
14 number of other means may be used to permanently disable 120 the observer, as
15 will be appreciated by those skilled in the art.

16 The user may also be given 122 the option of creating 124 decoy or bogus
17 observer created data. Depending on the particular observer 34 and/or the computer
18 on which it is being used, various means may be used to create 124 decoy or bogus
19 observer created data. For example, if an observer computer program 34 was
20 configured to log all observed items to a log file 44, the embodiment of Figure 7 may
21 simply replace the log file 44 with a bogus log file before the log file is sent to another
22 location or before it is retrieved by something or someone. If the observer computer
23 program 34 was configured to e-mail observed items periodically to a certain e-mail

316895.1

1 address, the embodiment of Figure 7 may disable the observer's 34 ability to e-mail
2 its observed data and the embodiment may then, itself, e-mail off bogus or decoy
3 data to the particular e-mail address at expected intervals. In addition, to create 124
4 decoy or bogus observer data, the embodiment may present the data to the user to
5 be modified before being stored and/or e-mailed. The embodiment may also employ
6 rules to modify the data before being stored and/or emailed. Those skilled in the art
7 will appreciate the many ways that decoy or bogus observer data may be created
8 and the many ways in which the decoy or bogus data may be substituted for the
9 original observer created data.

10 With the popularity and usefulness of computer networks, including the
11 Internet and the World Wide Web, a computer network 126 may be used to supply
12 and use embodiments as disclosed herein. Figure 8 illustrates a general block
13 diagram of a computer network 126 being used to distribute and use embodiments
14 as disclosed herein. Embodiments shown herein may be implemented and used
15 over computer networks 126, including, for example, the Internet and the World Wide
16 Web, a corporate intranet, a LAN, a WAN, etc. For example, a web site 128 may be
17 implemented that allows users 130 browsing the Web to access and use observer
18 detection computer programs and countermeasures to check their local systems.
19 The steps that may be followed in such an implementation are illustrated in Figure 9.

20 Figure 9 is a general flow diagram illustrating the steps that may be followed
21 with an embodiment distributed and used via the World Wide Web. A user may visit
22 132 the observer detection and/or countermeasures web site. A user may then
23 make a request 134 from the web site for the detection of observer programs on the

316895.1

1 user's local system. Once this has been requested by the user, the embodiment of
2 Figure 9 downloads 136 a computer program implementing features of the
3 embodiments herein. Once the observer detection software download is complete, it
4 will run 138 as illustrated and described herein. The observer detection program may
5 then generate 140 a report and present 142 the report to the user. The report may
6 either be generated and displayed all locally, or it may use functionality of the web
7 site for display. If the web site is to be used in presenting any report data, the
8 observer detection computer program may send its report data back to the web site.
9 The web site may then receive, store, format and then present such reporting data to
10 the user.

11 If observer programs 34 were present on the system, the user may wish to
12 use countermeasures against such observer programs 34. If a user desires to use
13 countermeasures, he, she or it may make a request 144 from the web site for the
14 use of countermeasures on the user's local system. Once this has been requested
15 by the user, the embodiment of Figure 9 downloads 146 a computer program
16 implementing features of the embodiments herein. Once the countermeasures
17 software download is complete, it will run 148 as illustrated and described herein.
18 After the countermeasures are run, the user may be finished using the features of
19 the embodiments shown and used in Figure 9. Of course, other processing may be
20 accomplished, should the user so desire.

21 From the above discussion, it will be appreciated that the present embodiments
22 disclosed provide systems and methods for detecting the presence of an observing or

1 monitoring program. In addition, systems and methods have been disclosed for
2 providing countermeasures against observing or monitoring programs.

3 The present embodiments may be embodied in other specific forms without
4 departing from their spirit or essential characteristics. The described embodiments are
5 to be considered in all respects only as illustrative, and not restrictive. The scope of
6 the invention is, therefore, indicated by the appended claims, rather than by the
7 foregoing description. All changes which come within the meaning and range of
8 equivalency of the claims are to be embraced within their scope.

9 What is claimed is: